IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.5290 of 1983**
DATE OF DECISION: October 11, 2006

SHRI BALWANT SINGH AND OTHERS ...PETITIONERS

VERSUS

THE LAND ACQUISITION TRIBUNAL IMPROVEMENT TRUST, HANSI (DISSOLVED) THROUGH ITS PRESIDENT SH. K.L. WASON, DISTRICT AND SESSIONS JUDGE, HISAR AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. SUDHIR MITTAL, ADVOCATE FOR THE PETITIONERS.
MR. SAPAN DHIR, ADVOCATE FOR THE RESPONDENTS.

ASHUTOSH MOHUNTA, J.

The petitioners have prayed for quashing of the award dated 18.12.82 recorded by the assessors (Annexure P-5) and also to modify the award dated 18.12.82, passed by the President of the Tribunal-respondent No.1 (Annexure P-4) and have prayed that the petitioners be paid compensation at the rate of Rs.150/- per sq. yard for their lands acquired by the Improvement Trust, Hansi.

Briefly the facts of the case are that the petitioners were the owners of the land comprised in Khasra No.1087-1088 measuring 45 kanals 6 marlas alongwith other land owners, situated within the municipal limits of Hansi town. The Imrovement Trust, Hansi (hereinafter referred to as 'the Trust') prepared Scheme No.12 providing for establishment of Modern Market called the Indira Market Development Scheme for commercial purposes and in exercise of its powers under Scheme 36 of the Punjab Town

Improvement Act, 1922 (hereinafter referred to as 'the Act') issued a notice published in official gazette on 24.4.1983, with a view to invite objections to the acquisition of the aforesaid land for the market. The State Government accorded sanction to the aforementioned Scheme which was duly notified under Section 42 of the Act.

The Land Acquisition Collector made an award on 17.6.1978, according to which compensation for the land measuring 2472 sq. yards situated along side of Delhi-Hisar Road was determined at Rs.150/- per sq. yard. As the lands of the petitioners are situated not on the main road of Hisar-Delhi Road but the at the back thus, they were awarded Rs.40/- per sq. yard.

The award of the Land Acquisition Collector, Hansi dated 17.6.1978, was challenged by the petitioners before the Tribunal, Improvement Trust Hisar by filing reference petitions. The President of the Tribunal maintained the compensation at the rate of Rs.150/- per sq. yard for the land situated on the Delhi-Hisar Road and for the rest of land at the back, compensation has been enhanced from Rs.40/- per sq. yard to Rs.80/- per sq. yard. It is pertinent to mention here that Two other Members of the Tribunal, namely, S/Sh. Deep Chand Sharma and Ajit Singh Malik upheld the award passed by the Land Acquisition Collector. The Municipal Committee, Hansi challenged the award passed by the President of the Tribunal by filing CWP No.1930 of 1980 wherein it was primarily argued that as majority of the Members of the Tribunal have upheld the award of the Land Acquisition Collector, therefore, the majority view must prevail in view of the provisions of Section 65(a) of the Act and hence the award passed by the President is liable to be set aside. This Court accepted the

aforementioned writ petition filed by the Municipal Committee, Hansi and held that the award passed by the majority of the Members has to prevail in view of the provisions of Section 65(a) of the Act and accordingly, the award passed by the President was set aside and the award passed by the Two Members was upheld. It was, however, ordered that the judgement shall not affect the right of the land owners to claim higher compensation in the writ petition filed by them. Thus, the right of the petitioners to claim higher compensation has been protected.

In the present writ petition the petitioners have claimed that they are entitled to be awarded the same compensation as was awarded for the lands abutting on the Delhi-Hisar Road. It is contended by the counsel for the petitioner that entire land is in one compact block measuring 45 kanals 6 marlas. The purpose of acquisition for setting up a commercial centre i.e., Indira Market at Hansi. It is contended that it would be immaterial whether the land is on the main road or at the back because a shopping complex is to come up in the acquired land. It is also submitted by the learned counsel for the petitioners that the land is in the heart of the town and has great potentiality for being used for commercial purposes and therefore, fixation of the market value by applying the belting system was not valid. Reliance has been placed on the judgement in *Smt. Ravi Kanta* vs. *Land Acquisition Tribunal, Hissar and ors.* reported as 1990 P.L.J. 255.

The arguments of the counsel for the petitioner have been controverted by Mr. Sapan Dhir, counsel for the respondent-Trust. He has argued that the lands of the petitioners are not abutting the Delhi-Hisar Road, therefore, they are not entitled to be paid the same compensation as has been awarded to the persons whose lands are situated on the main road.

After hearing counsel for parties I am of the considered view that as the purpose of acquisition is for setting up of a market in the name and style of Indira Market at Hansi and that the land acquired is in one compact block, therefore, the belting system as adopted by the Tribunal cannot be sustained in the present case. The acquisition is not of a very large area i.e., of 45 kanals 6 marlas only and thus, as the entire land had a potential for being used for commercial purposes, therefore, in my considered view the belting system was not warranted and a uniform rate of compensation ought to have been awarded. In *Ravi Kanta's case* (supra) it has been held that:-

> "*The disputed land as already described above, being in the hear of the own having great potentiality for being used for residential and commercial buildings and, in fact, having shops thereon surrounded by roads on three sides, municipal office, telegraph office, Cinemas and other commercial buildings, does not warrant applying of belting system.*

It is next argued that as the petitioners have claimed Rs.150/- per sq. yard as was awarded for the lands abutting on the Delhi-Hisar Road, therefore, the petitioners are entitled to the same rate of compensation.

No other point was canvassed before me.

In view of the fact that it has been held that the belting system was not warranted in the facts of the present case and that the compensation of the entire land would be at a uniform rate, therefore, I award a compensation at the rate of Rs.150/- per sq. yard for the entire land

acquired. The petitioners are also held entitled to solatium at the rate of 30% per annum and interest at the rate of 9% for the first year and 15% thereafter. The petition is accordingly allowed in the above terms. The awards of the Tribunal and the Assessors (Annexures P-4 & P-5) are accordingly set aside and compensation is awarded to the petitioners in the manner indicated above.

October 11, 2006 **(ASHUTOSH MOHUNTA)**
Gulati **JUDGE**